

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

May 25, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Subject: Request to amend prior board action of September 22, 2006, agenda item E1, and to approve the issuance of a lease for State Parks lands at Makiki Valley State Recreation Area, Makiki, Oahu to Mana Maoli for educational uses.

At the land board meeting of September 22, 2006, agenda item E1 requested approval for the issuance of a revocable permit and non-exclusive lease of State Park lands at Makiki Valley State Recreation Area, Makiki, Oahu to Halau Ku Mana Public Charter School ("HKM") for educational uses.

Six recommendations were approved for Item E1. Since the approval the department has been working with the Attorney General's Office on the development of a 30-year lease for HKM. A land survey was recently completed and the area of the proposed lease more clearly defined. A map showing the proposed lease area is attached to this submittal as Attachment A. The leased area would consist of Parcels 1, 2, and 3. There is no overlap with the area leased to the Hawaii Nature Center.

Additionally, the use of the proposed lease area has been more clearly defined. The school will initially consist of 8 temporary modular structures: three (3) 12 x 44 ft. trailers, one (1) 10 x 24 ft. trailer, one (1) 12 x 56 ft. trailer, and two (2) 24 x 40 ft. trailers. The temporary modular structures will be used as classrooms and administrative offices with an additional 10 x 24 ft. restroom trailer. In addition the school will erect one (1) 40 x 50 ft. canopy tent for use as a gathering space. The temporary facilities will be placed on the upper end of parcel 2 and a site map is attached as Attachment B. Parcels 1 and 3 under the proposed lease area will be used as outdoor spaces for native plant gardens, native reforestation projects, and if funding allows, a water quality study of the bordering stream.

With the plans more clearly defined, it has become apparent that the leased area around the modular structures (shown as the shaded area on Attachment A, Parcel 2) should be off limits to the public for the safety of students. Thus, although at the September 22, 2006 meeting the Board approved a non-exclusive lease, the lease now proposed would be an exclusive lease with a condition that the public may use the leased area, except in and around the modular structures, during normal park hours for park purposes. State Parks Division will enforce all statutes and rules applying to state parks in these areas to be used by the public. The area around the modular structures, in the northern portion of Parcel 2, will be used exclusively by the lessee. DAGS

Survey Division has been asked to provide a description of this area around the modular structures.

In addition, HKM has asked that the lease be held by its 501 (c) 3 non-profit public charity Mana Maoli. Mana Maoli was incorporated in March of 2001 for the purpose of building, maintaining and strengthening HKM. Mana Maoli would like to then sub-lease the subject parcels to HKM for educational uses as described in the September 22, 2006, agenda item E-1 Land Board submittal. The sublease rent to be paid to Mana Maoli would be no greater than the lease rent Mana Maoli pays to the State. Further, Mana Maoli must clearly retain responsibility for all of the terms, conditions, and covenants of the lease.

The Board is authorized to enter into lease agreements at a nominal consideration, by direct negotiations, with non-profit organizations under Section 171-43.1, Hawaii Revised Statutes. Mana Maoli is a 501(c) 3 entity and thus State Parks asks that the prior Board submittal be amended to grant the issuance of a lease to Mana Maoli for educational uses at Makiki Valley State Recreation Area and that a sublease from Mana Maoli to HKM be allowed.

RECOMMENDATIONS:

A. That the Board approve the following changes to the September 22, 2006, agenda item E-1 recommendations:

1. The Board approve a thirty-year lease for educational purposes only, to Mana Maoli, with a condition that the public may use the leased area, except in and around the modules in the top portion of Parcel 2 (to be described by DAGS Survey Division), during normal park hours for park purposes, for portions of the Makiki Valley State Recreation Area, Makiki, Oahu (TMKs (1) 2-5-19:Por. 8, (1) 2-5-20:3, 5, Por. 8 and Por. 4, as shown on Attachment A), with a lease rent of \$132.00 annually. The State Parks Division shall enforce all applicable statutes and rules in those areas open to the public. Mana Maoli and Halau Ku Mana must also comply with all applicable statutes and rules for the areas open to the public, except that they may use the areas open to the public for the purposes stated in the lease and to comply with the conditions of the lease during or beyond normal park hours.
2. The lease allow Mana Maoli to sub-lease all or portions of the leased area to Halau Ku Mana Charter School for educational purposes, under the conditions described above and incorporated herein, upon approval of the Chairperson of the terms of the sublease
3. All use of and activities conducted on the leased land must conform to the Makiki-Tantalus State Park Master Plan and accompanying Environmental Impact Statement and Conservation District Use Permit. Mana Maoli and Halau Ku Mana must release DLNR/State from any and all claims relating to restrictions placed on their use of or activities conducted on the leased land by these documents or applicable statutes and rules (as may be amended).
4. Prior recommendation no. 3, regarding issuance of a revocable permit to Halau Ku Mana, shall stand. However, upon the State's execution of a lease with Mana Maoli, the revocable permit to Halau Ku Mana will automatically terminate.

B. That the Board confirm the following regarding recommendations of the September 22, 2006, agenda item E-1 Board submittal:

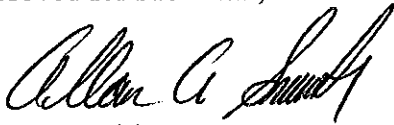
5. Recommendation no. 5, that the lease be subject to standard terms and conditions and any special conditions deemed appropriate by the Chairperson, shall stand.
6. Recommendation no. 6, that the lease be subject to review and approval by the Attorney General's office, shall stand.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

Approved for submittal,



Allan A. Smith
Interim Chairperson

Attachments

